

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----
ING GLOBAL,

Plaintiff,

-v-

UNITED PARCEL SERVICE OASIS SUPPLY
CORPORATION; BONE SAFETY SIGNS, LLC;

: 11 Civ. 5697 (JSR)

ORDER

Defendants.

JED S. RAKOFF, U.S.D.J.

Plaintiff ING Global ("ING") brings this case against defendants United Parcel Service Oasis Supply Corporation ("UPS") and Bone Safety Signs, LLC ("Bone Safety"). The case relates to a contract that ING had with UPS to provide new Reusable Network Containers ("RNCs") and to repair old RNCs. ING brings claims for breach of contract and fraud against UPS and for tortious interference with contract and unfair competition against Bone Safety.¹ UPS also brings two breach of contract counterclaims against ING. The first counterclaim alleges that ING breached the contract because it failed or refused to repair RNCs, and the second counterclaim alleges that ING breached the contract because it

¹After the summary judgment briefs were filed, ING narrowed its claims against Bone Safety. It dropped its tortious interference with prospective advantage claim, and it limited its tortious interference with contract claim to relate only to repair work that Bone Safety did on RNCs from 2010 to 2011. See Ugo Colella, Letter to the Court, Apr. 4, 2012, Dkt. 72.

disclosed confidential information in violation of the terms of the contract. The parties filed cross motions for summary judgment: ING moved for partial summary judgment on the breach of contract claim and on UPS' two counterclaims; UPS moved for partial summary judgment on the fraud claim and on its two counterclaims; and Bone Safety moved for summary judgment on the two counts against it.

For reasons that will be explained in a forthcoming written opinion, the Court hereby resolves those motions as follows:

1) ING's motion for partial summary judgment is granted with respect to UPS' second counterclaim, but denied in all other respects.

2) UPS' motion for partial summary judgment is granted with respect to the fraud claim, but denied in all other respects.

3) Bone Safety's motion for summary judgment is granted in its entirety.

Moreover, the defendants' objections to plaintiff's Rule 56.1 statements are denied.

Therefore, all claims are dismissed except for ING's claim for breach of contract and UPS' first counterclaim for breach of contract. Counsel for ING and UPS are directed to call chambers on Friday April 13, 2012 at 4pm to schedule trial on those claims.

The Clerk of the Court is directed to close document numbers 41, 43, and 44 on the docket of this case.

SO ORDERED.

Dated: New York, NY
April 9, 2012



JED S. RAKOFF, U.S.D.J.